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REMARKS

Claims 37-49 are pending in the present application. Claims 37-49 have been rejected. No claims have been allowed, canceled or added. Claims 37-46 have been amended to more clearly articulate that which is being claimed.

Rejections under 35 U.S.C. § 103

Each of claims 37-49 stands rejected under 35 U.S.C. § 103(a). Claims 37-40, 42, 44 and 46-49 stand rejected as being unpatentable over U.S. Patent No. 6,263,392 to McCauley ("McCauley") in view of Request For Comments: 951 by Croft et al. ("Croft"). Claim 41 stands rejected as being unpatentable over McCauley in view of Croft, and further in view of U.S. Patent No. 6,052,779 to Jackson et al. ("Jackson"). Claims 43 and 45 stand rejected as being unpatentable over McCauley in view of Croft, and further in view of U.S. Patent No. 5,802,592 to Chess et al. ("Chess"). In particular, the Office Action states that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McCauley to use the automatic operating code downloads taught by Croft to reduce cost and complexity of the peripheral devices [as presently claimed]." In light of the clarifying amendments made to all pending independent claims and the use of non-analogous art with respect to the gaming industry, Applicants respectfully traverse these § 103 rejections.

Clarifying Amendments

Independent claims 37 and 46 have both been amended to more clearly articulate that which is being claimed. In so amending, both claims have been substantially restructured to result in a clearer flow of claim elements. In addition, both claims have had language added to further clarify that the "gaming machine" at issue in both claims is one that is "adapted for presenting a game to a player once a bet has been placed and to pay a winning to the player for at least one particular predetermined outcome of the game." Support for such a clarifying

amendment can be found throughout the specification as filed, such as, for example, at page 8 line 7 through page 9 line 7. It is believed that the addition of this clarifying language makes it unambiguously clear that the present claims are directed only toward gaming machines that play games based on bets and that can award winnings thereby (e.g., slot machines, video poker or keno machines, etc.).

Furthermore, both independent claims have also been amended to clarify that the code downloaded to at least one peripheral is not only *operating code for that peripheral*, but that this code is "new operating code adapted to control the operation of said peripheral device and containing a least a portion of code that is different from any operating code previously used by said peripheral device." Support for such a clarifying amendment can be found throughout the specification as filed, such as, for example, at page 12 lines 13-19. It is believed that the addition of this clarifying language makes it unambiguously clear that the present claims are directed only toward gaming machines having peripheral devices that are adapted to receive operating code, at least a portion of which is new to the affected peripheral device or devices. Applicants respectfully submit that both of these added clarifying limitations should already have been apparent given the scope and detail of the written description as filed, but that any ambiguity as to that which is being claimed has hereby been eliminated through the definite addition of these limitations. Applicants also respectfully submit that neither McCauley nor Croft discloses either of these added clarifying limitations, such that the pending § 103 rejections for independent claims 37 and 46 cannot stand. Because all other claims depend from claim 37 or claim 46, the pending § 103 rejections for these claims similarly cannot stand.

Use of Non-analogous Art with Respect to Gaming Machine Industry

Applicants further submit that McCauley, Croft, Jackson, Chess and other references that have been cited as pertinent prior art are all non-analogous art with respect to the gaming

machine industry, such that it is inappropriate to use such references in combination to render the presently claimed invention as obvious. Traditionally, electronic gaming machines have not been manufactured as devices that are readily adapted to have many interchanged components or peripheral devices once such machines are built. Although there has been some desire within the gaming machine industry to model device compatibility after techniques that have been successfully implemented within the personal computer ("PC") industry, there are many reasons as to why similar techniques are not possible or practical in the manufacture of gaming machines and related components. Such reasons can include, for example, the strict regulatory requirements that are placed upon gaming machines; the harsh environment in which gaming machines operate; the more stringent security requirements required of gaming machines; and the stricter fault tolerance requirements required of gaming machine systems, among others. Furthermore, techniques and methods for solving a problem in the PC industry, such as device compatibility and connectivity issues, might not be adequate in the gaming environment. Many faults tolerated in a PC, such as security holes or frequent crashes, may not be tolerated in a gaming machine, since such faults can lead to a loss of funds as a result of stolen cash, fraudulently procured jackpots, or loss of revenue when the gaming machine is inoperable and thus unavailable for play.

Other relevant and significant differences between gaming machine systems and common PC based systems also exist, which further detracts from the ability to combine a reference from a non-gaming art for purposes of obviousness. For example, the fact that gaming machines must typically be state-based systems affects many of the software and hardware designs on the gaming machine. In a state-based system, the system stores and maintains its current state in a non-volatile memory, such that the gaming machine will return to its current state when power is restored in the event of a power failure or other similar malfunction. For instance, if a player were shown an award for a game of chance, but the

power failed before the award could be provided to the player, the gaming machine would return to the state where the award is indicated upon the restoration of power. PCs are not state machines, however, as a majority of current data is usually lost whenever a power failure or similar malfunction occurs. Another important difference between gaming machine systems and PC based systems is that the software used to generate a game of chance on and operate the gaming machine must, for regulation purposes, be designed as static and monolithic to prevent cheating by the operator of gaming machine. To gain approval in most gaming jurisdictions, a gaming machine must demonstrate sufficient safeguards that prevent an operator of the gaming machine from manipulating hardware and software in a manner that gives the operator an unfair or illegal advantage. The code validation requirements in the gaming industry affect both hardware and software designs on gaming machines.

As yet another important difference between systems, various peripherals such as coin dispensers, bill validators and ticket printers and computing devices that are used to govern the input and output of cash to a gaming machine have security requirements that are not typically addressed in PCs. Therefore, many PC techniques and methods developed to facilitate device connectivity and device compatibility do not address the emphasis placed on security in the gaming industry. Another difference with respect to gaming machine systems is that all software must be thoroughly tested, verified, and submitted for regulatory approval before it can be placed on a gaming machine. In addition, all such software must also then be tested in the field after placement on the gaming machine. The costs associated with developing and deploying a new device on a gaming machine can thus be quite high, especially where the operating characteristics of that new device are modified such that a new device driver is required.

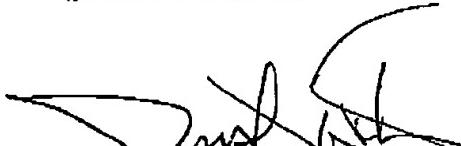
Given these and other differences between gaming machine systems and PC systems, it is readily apparent why many solutions to problems involving device compatibility and

interchangeability in PC systems may not be transferable to solve similar problems in gaming machine systems. Accordingly, Applicants respectfully submit that references regarding non-analogous art that do not deal with gaming machines and problems associated with gaming machines are inherently not references that one of ordinary skill in this art would use to solve problems associated with gaming machine. It follows then that use of such references should be carefully considered in determining what is obvious within the field of gaming machines, especially where such references (i.e., McCauley and Croft) are not directly on point with the problems set forth and solutions claimed in the present case. In any event, Applicants respectfully submit that a motivation to combine the recited references in a manner so as to solve a *gaming machine* related problem has not been shown.

CONCLUSION

Applicants respectfully submit that all claims are in proper form and condition for patentability, and request a Notification of Allowance to that effect. It is believed that no fee is due at this time. Should any fee be required for any reason related to this document, however, then the Commissioner is hereby authorized to charge said fee to Deposit Account No. 50-0388, referencing Docket No. IGT1P118. The Examiner is respectfully requested to contact the undersigned attorney at the telephone number listed below with any questions or concerns relating to this document or application.

Respectfully Submitted,  
BEYER WEAVER & THOMAS, LLP



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